

JAMES B. DODSON

IBLA 85-937

Decided September 29, 1986

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer W-96220.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases:
Lands Subject to--Oil and Gas Leases: Patented or Entered Lands

The Bureau of Land Management properly rejects an oil and gas lease offer for lands for which the minerals have been patented pursuant to the placer mining law.

APPEARANCES: James B. Dodson, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

James B. Dodson appeals from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated August 27, 1985, rejecting noncompetitive over-the-counter oil and gas lease offer W-96220, filed by appellant on July 22, 1985, as amended on July 29, 1985. BLM rejected appellant's offer because title to all of the land included within the offer had been patented out of the United States. The record shows that for the parcels of land in question, the United States had issued patents to homestead entrymen reserving all mineral interests pursuant to section 9 of the Stock-Raising Homestead Act of 1916, 43 U.S.C. § 299 (1982). The mineral interests in the tracts were subsequently patented to locators of placer mining claims. See 30 U.S.C. §§ 22, 29, and 35 (1982).

In his statement of reasons for appeal, appellant contends that when the United States granted mineral patents for the lands included in his lease offer, it retained title to the oil and gas. He argues that inclusion of the oil and gas rights within the scope of the mineral patent to the locator of the bentonite placer claims is inconsistent with the Act of February 11, 1897, c. 216, 29 Stat. 526, authorizing entry of petroleum lands under the

placer mining laws where such lands are "chiefly valuable therefor." ^{1/} Appellant reasons that since the lands for which he made a lease offer were patented with no mention of oil and gas deposits, the United States has retained its oil and gas interest. Appellant cites no authority for this interpretation.

Appellant further claims that a lack of intent to grant an interest in the oil and gas is evidenced by the patents' restrictions on mineral interests to the "exterior limits of the boundaries." Since oil and gas have the ability to flow across boundaries when captured, appellant reasons that a patent so limited cannot grant oil and gas interests.

[1] Appellant misinterprets the nature of a mineral patent. A mineral patent generally passes to the patentee all the interest which the United States has in the land. Cassidy v. Silver King Coalition Mines Co., 199 F. 100 (8th Cir. 1912). A patent for a placer mining claim conveys title to all placer deposits, as well as veins or lodes unknown at the time of patent. Republic Oil & Mining Co., 46 IBLA 120 (1980); see 2 Rocky Mountain Mineral Law Foundation, American Law of Mining, § 54.01 (2d ed. 1984). The issue presented in this appeal was addressed in Republic Oil & Mining Co., supra. Where land has been patented under the placer mining law, title to all minerals (other than valuable lodes claimed or known to exist at the time of patent), including any oil and gas deposits in the land, are generally conveyed pursuant to the patent. Hence, an oil and gas lease offer for such land is properly rejected. Republic Oil & Mining Co., supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Kathryn A. Lynn
Administrative Judge
Alternate Member

John H. Kelly
Administrative Judge

^{1/} This statute was superseded by provisions of the Mineral Leasing Act of 1920 making deposits of oil and gas subject to the mineral leasing rather than the mining law. Mineral Leasing Act of 1920, ch. 85, § 1, 41 Stat. 437 (current version at 30 U.S.C. § 181 (1982)).

